THE HON'BLE SRI JUSTICE K.C. BHANU

W.P.No.10281 of 2005

DATE:03-08-2005

Between:

1 S.K.Fared, S/o S.K.Vazir,

Aged about 51 years, Occ: Driver,

E.No.104524, R/o.6-6-125/B, Walsabgadda,

Sangareddy, Medak district.

..... PETITIONERS

AND

1 The Depot Manager, A.P.S.R.T.C.

B.H.E.L. Depot, Medak District.

RESPONDENT

THE HON'BLE SRI JUSTICE K.C. BHANU

W.P.No.10281 of 2005

ORDER:

The petitioner was working as a Driver in the respondent-Corporation. He was issued a charge sheet on 11-04-1997 and after receiving the explanation of the petitioner, final order was passed on 20-05-1997 imposing the penalty of deferment of increment for a period of one year, which will have permanent effect on his future increments. The petitioner questioned the order on the ground that the deferment of increment for a period of one year with cumulative effect is a major penalty and the respondent passed the impugned order without conducting any enquiry as required under the rules. Hence, the writ petition.

Learned counsel for the petitioner relied upon a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Pujab** , wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 8 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as deferment of increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of

deferment of increment for a period of one year without cumulative effect. However, the petitioner is not entitled for any monetary benefits.

The writ petition is accordingly disposed of with the above observation. No costs.

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K.C.BHANU, J

Dated August 03, 2005.

YCR

Note:

Issue copy within a week.